

APPEAL NO. 040011
FILED FEBRUARY 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 2, 2003. The hearing officer determined that the appellant (claimant) sustained what would otherwise be a compensable injury on _____, but that the respondent (self-insured) is relieved of liability pursuant to Section 409.002, because the claimant did not timely report his work-related injury to his employer, and did not have good cause for failing to timely report the injury. The claimant appeals the adverse determinations. The self-insured responds, urging affirmance.

DECISION

Affirmed.

Section 409.001 requires that an employee, or a person acting on the employee's behalf, shall notify the employer of an injury not later than the 30th day after the date on which the injury occurs. Failure to do so, absent a showing of good cause or actual knowledge of the injury by the employer, relieves the carrier (self-insured and the employer in this case) of liability for the payment of benefits for the injury. Section 409.002. Good cause is defined as whether the claimant has exercised the degree of diligence of an ordinarily prudent person in prosecuting a claim. Texas Workers' Compensation Commission Appeal No. 92075, decided April 7, 1992. Good cause must continue up to the date when the claimant actually notifies the employer. Texas Workers' Compensation Commission Appeal No. 93649, decided September 8, 1993.

Whether good cause exists for failure to timely report an injury and whether timely notice is given are questions of fact for the hearing officer to decide. The hearing officer found that the claimant's explanation for his failure to timely report his injury was not reasonable, that a reasonable person would have known by April 15, 2003, that the injury was not trivial and was related to work, and that it should have been reported. The parties stipulated that the claimant did not report a work-related injury to his employer until July 22, 2003. Consequently, the hearing officer concluded that, because the claimant did not give timely notice of the injury, it is not compensable. Nothing in our review of the record indicates that the hearing officer's decisions regarding timely notice and compensability of the injury are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**COUNTY JUDGE
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge